

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
Williamsport Division

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|---------------------------------|---|-------------------|
| COLUMBIA GAS TRANSMISSION, LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. |
| |) | 4:13-cv-00778-MWB |
| 1.01 ACRES, MORE OR LESS |) | |
| IN PENN TOWNSHIP, YORK COUNTY, |) | |
| PENNSYLVANIA, <i>et al.</i> |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

PLAINTIFF COLUMBIA GAS TRANSMISSION, LLC'S MOTION FOR
PARTIAL SUMMARY JUDGMENT AND FOR IMMEDIATE
POSSESSION OF THE EASEMENTS

Plaintiff Columbia Gas Transmission, LLC ("Columbia Gas"), by and through counsel, hereby moves for Partial Summary Judgment and for Immediate Possession of the Easements and states as follows:

1. Columbia Gas is a natural gas company that is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). Rule 56.1 Statement of Undisputed Material Facts ("SUMF") ¶¶ 1-2.

2. Dwayne P. Brown and Ann M. Brown (collectively, the "Landowners") own real property located in Penn Township, York County, Pennsylvania (the "Property") over which Columbia Gas is seeking easements necessary to replace a portion of an existing natural gas pipeline, Line 1655 (the

“Pipeline”). SUMF ¶¶ 3, 4, 6.

3. Pursuant to a FERC Certificate of Public Convenience and Necessity (“FERC Certificate”), Columbia is authorized “to conduct many routine activities and abandon facilities and service on a self-implementing basis without further authorization by the Commission.” SUMF ¶ 7.

4. Columbia Gas has confirmed the need to replace a portion of the Pipeline to meet pipeline safety standards. SUMF ¶ 9.

5. Columbia Gas is scheduled to begin work in connection with the replacement of the Pipeline on or about June 29, 2013. SUMF ¶ 10.

6. Columbia Gas attempted to acquire the Easements from the Landowners by negotiation, but was unsuccessful. SUMF ¶¶ 11-12.

7. In order to for the Court to grant Columbia Gas immediate possession of the Easements, Columbia Gas must show that it has the power of eminent domain and that the elements for a preliminary injunction are satisfied. Columbia Gas has satisfied these two requirements.

8. Columbia Gas has established that it has the power of eminent domain because: (1) it holds a FERC certificate of public convenience and necessity; and (2) it cannot agree with the Landowners on compensation.

9. First, for the reasons stated in Columbia Gas’s Memorandum in Support of Its Motion for Partial Summary Judgment and for Immediate

Possession of the Easements filed herewith (the “Memorandum”), the FERC Certificate authorizes Columbia Gas to replace the Pipeline without further authorization.

10. Second, as set forth in the Affidavit of Doug Holley, Columbia Gas has attempted to acquire the Easements from the Landowners, but has been unsuccessful. Aff. of D. Holley ¶¶ 21-32.

11. Thus, Columbia Gas is entitled to condemn the Easements pursuant to 15 U.S.C. § 717f(h).

12. Because Columbia Gas has established that it is authorized to condemn the Easements, the Court must determine whether Columbia Gas has demonstrated the four preliminary injunction factors: (1) a reasonable probability of success on the merits; (2) irreparable injury if denied relief; (3) that relief will not cause greater harm to the nonmoving party; and (4) that relief is in the public interest. For the reasons stated in Columbia Gas’s Memorandum, Columbia Gas satisfies each element and is therefore entitled to immediate possession.

13. Therefore, and for all of the reasons set forth in greater detail in Columbia Gas’s Memorandum, its Rule 56.1 Statement of Undisputed Material Facts and the Exhibits thereto, which are herein incorporated by reference, Columbia Gas respectfully requests that this Court grant its motion for partial summary judgment and for immediate possession of the Easements.

Dated: May 24, 2013

Respectfully submitted,

**COLUMBIA GAS TRANSMISSION,
LLC**

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May, 2013 a true copy of the foregoing Plaintiff Columbia Gas Transmission, LLC's Motion for Partial Summary Judgment and for Immediate Possession of the Easements was filed electronically and served via first-class mail on:

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